

AF
TW

[22750/482]

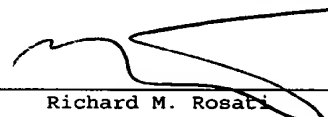
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES

-----X
In re Application of: : Examiner:
: William P. Watkins III
GROITZSCH et al. :
:
:
For: PERFORATED NONWOVEN FABRIC : Art Unit 1772
AND METHOD FOR ITS MANUFACTURE:
:
Filed: August 9, 2001 :
:
:
Serial No.: 09/807,508 :
:
-----X

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:
Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

Date: June 29, 2007 Reg. No. 31,792

Signature: 
Richard M. Rosati

REPLY BRIEF PURSUANT TO 37 C.F.R. § 41.41

S I R:

Appellants submit the present Reply Brief in response to the Answer dated May 2, 2007.

REMARKS

Claims 11 to 15, 17 to 25, and 27 to 30 stand finally rejected under 35 U.S.C. § 103(a) as unpatentable over the combination of U.S. Patent No. 4,840,829 ("Suzuki et al."), U.S. Patent No. 5,162,074 ("Hills"), U.S. Patent No. 5,783,503 ("Gillespie et al."), U.S. Patent No. 5,112,690 ("Cohen et al."), and U.S. Patent No. 6,004,306 ("Robles et al."). For at least the reasons set forth below and in the Appeal Brief, the rejection of claims 11 to 15, 17 to 25, and 27 to 30 should be reversed.

The Examiner refers to Example II of Cohen et al. Cohen et al. attempt to demonstrate in Example II the benefits of the use of a surface active agent in combination with corona treatment over the use of a surface active agent alone. See col. 15, line 56 to col. 16, line 15. Cohen et al. use sample porous webs with a weight percentage reduced to 0.1% surface active agent for the purpose of testing. If anything, Appellants submit that such disclosure in effect teaches away from Appellants' invention which uses a surface-active agent alone while still providing for a reduction of surface-active agent by controlling the material properties of the web itself. Further, the particular choice of surface-active agent weight percentage chosen by Cohen et al. for the particular test of Example II in no way discloses, or even suggests, that a hygiene product should include a weight percentage of 0.1% rather than a higher amount.

Appellants respectfully assert that the Examiner improperly relies on Cohen et al. for its alleged suggestion of using a low weight percentage of surface-active agent on the particular hygiene product and perforated nonwoven fabric claimed by Appellants. Appellants have invented a method for producing a perforated nonwoven with particular characteristics that allow for the use of a relatively low amount of surface-active agent. Cohen et al. specifically relate to the use of a surface treated film in conjunction

7' with corona treatment to decrease run-off. In this regard, Cohen et al. state, for example, that their "invention is directed toward substances which, in combination with corona discharge treatment, increase the retentive wettability of fibrous porous materials. . ."

Conventional hygiene products, for example, use a surface-active agent weight percentage typically higher than 0.20%. Appellants particular arrangement of processing steps results in a material with particular properties, as claimed, allowing for the use of a much lower amount of surface-active agent even without corona treatment up to the point of dispensing with the surface-active agent completely. In this regard the Specification, for example, at p. 9, lines 1 to 19, states as follows:

Ingredients that change the interfacial tension on the microfiber surface may also be subsequently applied after the generation, i.e., release of the microfiber filaments in the already perforated nonwoven. Such substances are, for example, wetting agents in dispersed form or dissolved in water, with which many diaper-cover spunbonded materials are finished for the purpose of better urine management.

However, the nonwoven fabrics of the present invention may not require such wetting agents or may include only a fraction of the conventional application quantity. The development of the perforations, i.e., their hole size, their shape, the arrangement of the individual perforations relative to each other (e.g., staggered or in rows) and the open area, as well as the extremely high suppleness of the segments (area between the perforations) composed of interlaced continuous microfiber filaments and their very low weight allow this reduction in wetting agent up to the point of dispensing with it completely.

Appellants respectfully submit that it would not have been obvious to patch together teachings from five different references so as to arrive at the particular hygiene

product claimed so as to allow for a reduced amount of surface-active agent. The references cited provide no motivation or suggestion for such. Nor would it have been obvious based on Cohen et al.'s disclosure regarding the testing of corona treated fibrous materials to use a surface-active agent in such a hygiene product at 0.2% or less by weight.

Therefore, for all the foregoing reasons, reversal of this rejection is respectfully requested.

Respectfully submitted,

Dated: June 29, 2007

By: 

Richard M. Rosati
Reg. No. 31,792

KENYON & KENYON LLP
One Broadway
New York, New York 10004
(212) 425-7200
CUSTOMER NO. 26646